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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,136	07/21/2006	Rebecca Louise Charles nee Newsham	T3109(C)	3175

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EXAMINER	
FLOOD, MICHELE C	
ART UNIT	**PAPER NUMBER**
1655	

MAIL DATE	DELIVERY MODE
08/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/587,136	CHARLES NEE NEWSHAM ET AL.	
	Examiner	Art Unit	
	Michele Flood	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-15* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-6, 11 and 14 drawn to a skin lightening product comprising components (a) a flavanoid, (b) vitamin C and (c) vitamin E wherein at least component (b) is provided in a form suitable for systemic administration with the other components being provided in a form suitable for topical administration.

Group II, claim 7, drawn to skin lightening product comprising a first composition for oral administration which comprises a flavanoid and vitamin C, and a second composition for topical administration which comprises vitamin E.

Group III, claim 8, drawn to method of increasing the ratio of light melanin to dark melanin in the skin of a mammal, the method comprising administering to said mammal an effective amount of (a) a flavanoid, (b) vitamin C and (c) vitamin E wherein at least component (b) is administered systemically and the other components are administered topically.

Group IV, claim 9, drawn to method of increasing the ratio of light melanin to dark melanin in the skin of a mammal, the method comprising administering to said mammal an effective amount of (a) a flavanoid, (b) vitamin C and (c) vitamin E wherein components (a) and (b) are administered systemically and component (c) is administered topically.

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Group V, claim 10, drawn to method of increasing the ratio of light melanin to dark melanin in the skin of a mammal, the method comprising administering systemically to said mammal an effective amount of (a) a flavanoid, (b) vitamin C and (c) vitamin E.

Group VI, claim 13, drawn to method of modulating the production of melanin in the skin of a mammal which comprises administering to said mammal (a) a flavanoid, (b)

vitamin C and (c) vitamin E wherein at least component (b) is administered systemically and the other components are administered topically.

Group VII, claims 12 and 15, drawn to non-statutory subject matter

The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of each composition and/or method: The special technical feature of Group is drawn to a skin lightening product comprising components (a) a flavanoid, (b) vitamin C and (c) vitamin E wherein at least component (b) is provided in a form suitable for systemic administration with the other components being provided in a form suitable for topical administration, whereas the special technical feature of Group II Is drawn to skin lightening product comprising a first composition for oral administration which comprises a flavanoid and vitamin C, and a second composition for topical administration which comprises vitamin E, whereas the technical special feature of each of the methods of Groups III-VI are drawn to either a method of increasing of increasing the ratio of light melanin to dark melanin in the skin of a mammal comprising the administration of (a) a flavanoid, (b) vitamin C and (c) vitamin E or a method of modulating the production of melanin in the skin of a mammal comprising the administration of (a) a flavanoid, (b) vitamin C and (c) vitamin E. Thus, Groups I-VII are unrelated compositions and/or methods because the invention of Group I and Group II are directed to different products: a skin lightening product comprising one composition comprising 3 components, as claimed in the invention of Group I; and, a skin lightening product

comprising a first composition comprising two components and a second composition comprising a single component. Moreover, Claims 1-5, 10, 11 and 14, at least are anticipated by or obvious over FR 2825277 A1 (N) because Breton teaches a soft capsule composition for oral administration comprised of soya oil (40 mg), wheat germ oil (85 mg), soya lecithins (25 mg), natural tocopherols (3 mg), vitamin C (50 mg), lycopene (5 mg) and genistein (25 mg); and, a method of use thereof as a skin-lightening agent; and, it is well known in the art that genistein, an isoflavone, can be obtained from *Glycine max*.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to

be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michele Flood
Primary Examiner
Art Unit 1655

MCF
August 25, 20084

/Michele Flood/
Primary Examiner, Art Unit 1655